



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 174840

PRELIMINARY RECITALS

On June 8, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Waukesha County Health and Human Services regarding FoodShare benefits (FS). The hearing was held on July 7, 2016, by telephone.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly calculated the Petitioner's FoodShare benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED], Lead Economic Support Specialist
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On May 11, 2016, the agency sent the Petitioner a Notice of Proof Needed requesting income verification. (Exhibit 2)

3. On May 18, 2016, the agency sent the Petitioner a notice, indicating his Foodshare benefits would be ending effective June 1, 2016, because he had not completed his renewal and because he had not provided the requested verification. (Exhibit 5)
4. On May 20, 2016, the Petitioner submitted two bi-weekly paystubs; one dated April 14, 2015, showing 58 hours worked at \$10.09 per hour; one dated April 28, 2016, showing 58 hours worked at \$10.09 per hour; and one dated May 12, 2016, showing 59 hours worked at \$10.09 per hour. (Exhibit 6)
5. According to a Federal Data Services Hub (a.k.a. FDSH) wage match, Petitioner's wife earned \$9.00 per hour, but her income fluctuated:

6/30/16	68 hours
5/14/16	69 hours
4/30/16	73 hours
4/16/16	59 hours
4/02/16	67 hours
3/19/16	77 hours

(Exhibit 4)
6. On May 23, 2016, the agency sent the Petitioner a notice indicating that he would be receiving FoodShare benefits in the amount of \$16.00 per month. (Exhibit 7)
7. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 8, 2016. (Exhibit 1)
8. Petitioner has a household of two; no one is over age 60, blind, or receiving disability benefits. (Testimony of Petitioner)
9. The pays rent in the amount of \$575.00 per month and incurs a heating expense. (Testimony of Petitioner)

DISCUSSION

To be categorically eligible, most FoodShare groups must have gross income at or below 200% of the Federal Poverty Level (FPL). *FoodShare Wisconsin Handbook (FSH) §4.2.1.1; 7 CFR 273.2(j)(2)*.

200% of FPL for an assistance group of 4 is \$2656 per month. *FSH §8.1.1.1*

The Petitioner's income works out as follows:

58 hour per bi-weekly pay period x \$10.09 per hour = \$585.22 per pay check
 \$585.22 x 2.15 average bi-weekly pay periods per month = \$1258.22 average monthly income.

FSH §1.2.4.2 indicates that if income fluctuates, such that a 30 day period does not provide an accurate indication of anticipated income, the agency and the applicant/member may average income over a longer period of past time, if it will provide a more accurate indication of anticipated fluctuations in income. Petitioner's wife's income does indeed fluctuate. Over a three month period her hours fluctuated between 59 and 77 hours. Thus, it is reasonable to average her income.

Petitioner's wife's income works out as follows:

68 + 69 + 73 + 59 + 67 + 77 ÷ 6 paychecks = 68.83 average hours per pay period
 68.83 hours x \$9.00 per hour = \$619.47 per pay check
 \$619.47 x 2.15 average pay periods per month = \$1337.86 average monthly income.

So, the household income works out to be:

$$\text{\$1258.22 Petitioner's Income} + \text{\$1337.86 Wife's Income} = \text{\$2596.08}$$

Petitioner's gross income of \\$2596.08 is below the \\$2656, 200% FPL income limit. Thus, Petitioner is categorically eligible for FoodShare benefits.

Once a household passes the gross income test, the following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \\$155 per month for a household of 1-3 people, 7 *CFR* § 273.9(d)(1):
 \\$168 for four people
 \\$197 for five people
 \\$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

For Petitioner this was: \\$2590.08 x 20% = \\$519.21

- (3) certain medical expenses – for medical expenses exceeding \\$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\\$458
LUA – Limited Utility Allowance	\\$293
EUA – Electric Utility Allowance	\\$119
WUA-Water and Sewer Utility Allowance	\\$78
FUA- Cooking Fuel Allowance	\\$46
PUA- Phone Utility Allowance	\\$30
TUA – Garbage and Trash Utility Allowance	\\$20

There is a cap of \\$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

It is undisputed that the Petitioner is entitled to the fully Heating Standard Utility Allowance of \\$458.00.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective June 1, 2016:

Gross Income	\\$2596.08
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Earned Income Deduction	-\$519.21		
Standard Deduction	-\$155.00	Rent	\$575.00
No Medical Expenses exceeding \$35		HSU	+\$458.00
Dependent Care Expenses		-50% net income	-\$960.94
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$1921.87	Excess Shelter Expense: \$72.06	
Excess Shelter Expense	- \$72.06		
Net Income	\$1849.81		

Households with a net income of \$1849.81 are eligible for Foodshare benefits in the amount of \$16.00 per month. *FSH §8.1.2*

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner's FoodShare benefits for June 1, 2016, going forward.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

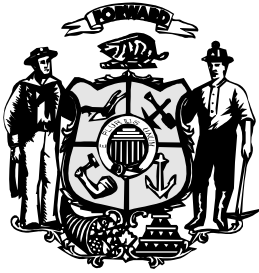
Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of July, 2016

\s _____

Mayumi M. Ishii

Administrative Law Judge

Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 22, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability